



State of Utah

Department of
Environmental Quality

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DAQ-043-07

MEMORANDUM

TO: Air Quality Board

THROUGH: Cheryl Heying, Executive Secretary

FROM: Tim Andrus, Environmental Engineer

DATE: August 1, 2007

SUBJECT: Propose for Public Comment: Amend R307-415. *Applicability.*

UAC R307-415-4 specifies applicability of the Title V permitting program in Utah. In sections R307-415-4(1)(b) and (c), the program is applied to all sources, including area sources⁽¹⁾ subject to a New Source Performance Standard (NSPS), National Emission Standard for Hazardous Air Pollutants (NESHAP) or Maximum Achievable Control Technology (MACT) standard.

EPA has been promulgating NSPS and MACT rules that specifically exempt area sources from Title V permitting obligations, beginning with the exemption of five area source categories in December 2005 (70 FR 75320, 12/19/2005). These particular exemptions were adopted into R307-415(2)(c) in 2006.

EPA has continued to exempt area sources from Title V in subsequent NSPS and MACT rulemakings⁽²⁾⁽³⁾. It appears that this is EPA's chosen approach to implement its authority under Part 70 to exempt area sources from Title V⁽⁴⁾.

This presents two options for handling these regulations under R307-415. Staff could modify R307-415-4(2)(c) each time EPA promulgates a new regulation containing the exemption language, or staff can modify R307-415-4(2)(c) with a general exemption for area sources subject to any rule containing EPA's exemption. Staff has chosen to propose the latter approach since it requires fewer resources and provides a more certain position for area sources. This approach to exempting sources also parallels the approach to including sources in R307-415-4(1).

Staff Recommendation: Staff recommends that R307-415-4 be proposed for public comment. A copy of the proposal is attached.

(1) “Area source” means any stationary source that is not a major source. Depending on the context of the discussion, “nonmajor source” may also be used to indicate this class of sources. Utah rules use the term “area source” exclusively.

(2) 40 CFR 60 Subpart IIII—Standards of Performance for Stationary Compression Ignition Internal Combustion Engines: 60.4200(c) “If you are an owner or operator of an area source subject to this subpart, you are exempt from the obligation to obtain a permit under 40 CFR part 70 or 40 CFR part 71, provided you are not required to obtain a permit under 40 CFR 70.3(a) or 40 CFR 71.3(a) for a reason other than your status as an area source under this subpart. Notwithstanding the previous sentence, you must continue to comply with the provisions of this subpart applicable to area sources.”

(3) 40 CFR 63 Subpart DDDDDD—National Emission Standards for Hazardous Air Pollutants for Polyvinyl Chloride and Copolymers Production Area Sources: 63.11140(d) “You are exempt from the obligation to obtain a permit under 40 CFR part 70 or 40 CFR part 71, provided you are not otherwise required by law to obtain a permit under 40 CFR 70.3(a) or 40 CFR 71.3(a). Notwithstanding the previous sentence, you must continue to comply with the provisions of this subpart.”

(4) 40 CFR 70.3(b)(2) “In the case of nonmajor sources subject to a standard or other requirement under either section 111 or section 112 of the Act after July 21, 1992 publication, the Administrator will determine whether to exempt any or all such applicable sources from the requirement to obtain a part 70 permit at the time that the new standard is promulgated.”